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10/765,687	01/27/2004	Daniel Klein	KLEID-66407	1448

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EXAMINER
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GISHNOCK, NIKOLAI A

ART UNIT	PAPER NUMBER
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3714

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07/03/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/765,687

Applicant(s)

KLEIN, DANIEL

Examiner

Nikolai A. Gishnock

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date 1/27/2004.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 7 recites the limitation "wherein the printed calendar sheet is a writable calendar sheet". There is insufficient antecedent basis for this limitation in the claim. Dependent claims 1 & 6 lack a reference to printed sheets, or sheets of any kind. [Claim 7].

3. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear whether "at least in part on" means the date specific data is chosen on the basis of either the user's age and ethnicity, or the user's age and religion; or if the date specific data is chosen on the basis of at least one of the user's age, ethnicity, or religion. The claim is being interpreted herein as the former [Claim 18].

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1, 2, 9, & 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCravy (US 2001/0036127 A1), hereinafter known as McCravy, in view of Krause (US 2002/0002558 A1), hereinafter known as Krause. McCravy discloses a talking calendar comprising: a visual display of days within a current year; a memory containing pre-recorded audio information (memory for storing data, Para. 0025; the audible sound may be a pre-programmed sound or a sound created by the user, Para. 0019); at least one sensor for detecting when a user selects a first day of the year from displayed days of the year (input device, such as a keyboard, can be used to input data from a user of the system, Para. 0025; the system is capable of controlling the message displayed on the various indicators, such as the year, month, day of the month, etc., Para. 0020; the information input by the user would thus at least include year, month, and day); an audio speaker (electronic system which actuates an audible sound, Para. 0019, McCravy inherently means a speaker for producing the sound electronically); and a controller for selecting information from the memory according to a selected day of the year (computer system, Para. 0025), and sending the date-specific information to the speaker for playing (electronic system, Para. 0019) [Claim 1]. What McCravy fails to teach is where the audio information pertains to date-specific historical events from prior years [Claim 1]. However, Krause teaches an Internet database for presenting date-specific historical information on a calendar (Para. 0056-0058). Krause also teaches using speakers for audio output (Para. 0047). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have used the date-specific historical information of Krause as pre-recorded audio information in the educational talking calendar of McCravy, in

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order to apprise the user of accomplishments or occurrences in the lives of famous persons [Claim 1]. McCravy discloses where the visual display comprises a printed calendar sheet (time indicators and notice indicators composing a calendar, Para. 0014-0016, and 0023). [Claim 2]. The limitation of claim 9, "wherein said talking calendar is an educational toy for children", is an intended use of the apparatus. The talking calendar of McCravy and Krause could be used as an educational toy for children [Claim 9]. McCravy teaches where the visual display of days within a current year comprises an electronic display (Para. 0019) [Claim 15]. McCravy teaches means for hanging the talking calendar on a wall (Para. 0021) [Claim 16]. McCravy teaches a computer interface for receiving date-specific data for later playback through an audio speaker upon selection of a corresponding date by a user (user-created programmed sound, Para. 0019) [Claim 17]. McCravy teaches where user-specific data is programmed into writable memory. What McCravy fails to teach is where the date specific data has been chosen at least in part on the basis of the user's age and at least one of the user's ethnicity and religion [Claim 18]. However, Krause teaches the ability of a user to define output parameters for date-specific information on the basis of age or era, nationality, race, and religion (Para. 0064). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have defined the date-related historical information based on age and religion, as taught by Krause, for populating the audio information for playback in the talking calendar of McCravy, in order to allow a user to filter calendar entries to select the kinds of events he or she is interested in tracking [Claim 18].

7. Claims 1, 3, 6-8, 12, 13, & 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bissonette et al. (US 5,602,963), hereinafter known as Bissonette, in view of Krause.

Bissonette discloses a talking calendar comprising: a visual display of days within a current year

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(dates shown for the calendar, 16:53-17:32; also, Figure 13, Items 64 & 272); a memory containing pre-recorded audio information (DRAM for storing digital voice recordings, 6:13-37); at least one sensor for detecting when a user selects a first day of the year from displayed days of the year ("select", "next", and "prev" buttons, 16:53-17:32); an audio speaker (7:12-19; also, Figure 1, Item 32); and a controller (microcontroller, 6:1-12, also Figure 1, Item 12) for selecting information from the memory according to a selected day of the year (microcontroller uses a decompression algorithm to convert digital voice signals to analog signals for playback, 7:12-19), and sending the date-specific information to the speaker for playing (when the day desired has been selected, the user may press "play" to enter the day and begin playback, 16:53-17:32) [Claim 1]. What Bissonette fails to teach is where the audio information pertains to date-specific historical events from prior years [Claim 1]. However, Krause teaches an Internet database for presenting date-specific historical information on a calendar (Para. 0056-0058). Krause also teaches using speakers for audio output (Para. 0047). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have used the date-specific historical information of Krause as pre-recorded audio information in the educational talking calendar of Bissonette, in order to apprise the user of accomplishments or occurrences in the lives of famous persons [Claim 1]. Bissonette teaches where the talking calendar is palm-sized (a small, portable, hand-held electronic personal organizer, Abstract) [Claim 3]. Bissonette teaches a microphone (6:38-7:19; also, Figure 1, Item 24) for recording a user-recorded message, where the controller associates the recorded message with a day of the year selected by the user for later playback (reminders and memos are stored with indicators, the time of recording a memo, and the due time for a reminder, 8:14-23) [Claim 6]. Bissonette teaches where the printed calendar sheet is a writable calendar sheet (the LCD display is utilized to visually feed back information to the user of the organizer, 7:20-21), such that a single calendar

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device allows a user to record a combination of written information and recorded oral information relating to a particular date for later review (when the day desired is selected, the user may press "play" to begin playback of the first reminder to come due on that day, with the due time and date shown on the display, 17:18-24) [Claim 7]. Bissonette teaches where the user can select a day of the year and retrieve a user-recorded message associated with the day for playback (17:18-24). What Bissonette fails to teach is where the selected day of the year is from a prior year [Claim 8]. However, Krause teaches that the user can select from a menu of alternative dates, including past calendar years (Para. 0073). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, for the user to have used the talking calendar of Bissonette to select a date for retrieving historical information from a prior year, as taught by Krause, for the purpose of creating a customized calendar for the user [Claim 8]. Bissonette teaches a plurality of category switches ("record", "select", and "play" buttons, 14:17-46) whereby the user can record information according to a selected one of a plurality of categories, and later plays back the user-recorded information according to the selected category (Memo Record, 11:40-62; Message Review: user presses "play" with the memo category being selected, and the last memo {or reminder} being automatically played back, 14:17-46) [Claim 12]. Bissonette teaches a plurality of modular removable writable memories {the term "writable" interpreted herein to mean, "capable of recording data"} (the organizer has a larger amount of RAM memory external to the microcontroller; additional expansion memories can be provided as necessary, 6:21-37; external memory is removable or optional, and expansion memory is modular). What Bissonette fails to teach is where each modular memory corresponding to a respective year [Claim 13]. However, Applicant has not disclosed that having one memory per respective year solves any stated problem or is for any particular purpose. Moreover, it appears that the external expansion memories of Bissonette or

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the Applicant's instant invention would perform equally well for containing information for only a specific year. Accordingly, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have modified the memories storing date-specific information of Bissonette such that each modular memory corresponds to a particular year, because such a modification would have been considered a mere design consideration, which fails to patentably distinguish over Bissonette [Claim 13]. Bissonette teaches a talking calendar comprising: a housing (Figure 2) including a microphone (Figure 1, Item 24), a speaker (Figure 1, Item 32), and a control unit (microcontroller, Figure 1, Item 12) for receiving input data via the microphone and outputting audible messages via the speaker, 6:61-7:18); at least one fixed function switch for accessing preprogrammed information pertaining to selected dates according to subject matter of the information ("record" and "play" buttons, 14:17-46; these buttons always have these functions, and are thus fixed function); and a plurality of inputs for defining separate categories of voice messages to be separately recorded and retrieved (11:40-62 and 14:17-46) [Claim 29].

8. Claims 4, 14, & 19-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCravy, in view of Krause, as applied to claims 1 & 2 above, and further in view of Ernst et al (US 2004/0043371 A1), hereinafter known as Ernst. McCravy and Krause teach all the features as demonstrated above in the rejections of claims 1 & 2. Krause teaches including a calendar sheet comprising a first sheet and eleven additional sheets, together defining twelve monthly calendar sheets, one for each month of the year (wall calendar, Para. 0017; printing pages of a wall calendar, Para. 0073-0074); McCravy teaches a housing having a first slot for receiving a first calendar sheet (apparatus includes slots to slide tabs or cards into, to indicate months, Para. 0023); and a second slot for receiving and holding the eleven additional sheets item



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container (separate item container includes compartments, Para. 0017; Item container can hold time indicator emblems, Para. 0022) [Claim 14]. McCravy teaches a talking calendar comprising: a plurality of monthly sheets, each having a machine-readable code corresponding to a respective month of the year (paper containing printed program captured by optical scanning, Para. 0027); and a housing for receiving a selected one of the monthly sheets, comprising: a body (Figure 1, Item 105A); at least one reader for reading code (bar code scanner input device, Para. 0024); a user input section (input device such as a keyboard or a mouse, Para 0025); a memory containing information pertaining to each of a plurality of respective days (system has memory for storing and retrieving data, Para. 0025; system is capable of communicatively coupling with and actuating time period indicators, Para. 0014); and a playback section (system is capable of actuating an audible pre-programmed sound created by a user, Para. 0019) [Claim 19]. What McCravy and Krause fail to teach is where the sensor comprises a plurality of switches disposed underneath the printed calendar sheet and holding it in proximity to the switches such that a user pressing on a day will cause a corresponding switch to be activated, or whereby a user can select a day of a month by touching a portion of the sheet corresponding to a selected day [Claims 4, 14, & 19]. However, Ernst teaches an electronic teaching device comprising a housing having a user-responsive position sensor array disposed under a printed sheet, which recognizes a user's selection of position on the printed sheet, and sending a signal associated with the selection to the interface (Para. 0008). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have disposed a sensor array for sensing when a user has pressed a day on the calendar sheet, as taught by Ernst, on the talking calendar of McCravy and Krause, in order to allow a student to activate electronic sound by selecting the words and images on the printed sheet in a more user-friendly manner than scrolling through an electronic display [Claims 4, 14,

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& 19]. Krause teaches information regarding events in history (Para. 0002; also, example in Para. 0054-0055) [Claim 20], and information regarding holidays (Para. 0003; also religious parameters {such as holidays}, Para. 0064) [Claim 21]. McCravy teaches where the housing further comprises a recording section, with the user recording and playing back information (computer, Para. 0025; for creating a user programmed sound, Para. 0019) [Claims 22 & 23]. Krause teaches information in a plurality of separate categories, according to both the user's day selection and category selection (categories of parameters, Para. 0066; filtering the results from the age-event database by category, Para. 0067, and date information, Para. 0063) [Claim 23]. McCravy teaches monthly calendar sheets having machine-readable code thereon (Para. 0027). What McCravy fails to teach is machine-readable code capable of causing a computer and printer to print the monthly calendar sheets [Claim 28]. However, Krause teaches printing monthly calendar sheets (Para. 0074) Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have printed the monthly calendar sheets by way of Krause, using the machine-readable code in the talking calendar of McCravy, with the teachings of Ernst, in order to allow a user to make a year's worth of customized monthly calendar sheets [Claim 28].

9. Claims 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCravy, in view of Krause and Ernst, as applied to claim 19 above, and further in view of Bissonette. McCravy teaches wherein memory comprises read-only memory and writable memory (Para. 0027). What McCravy fails to teach is where the read-only memory containing information regarding historical events, and the writable memory containing user-programmed information regarding recent events [Claim 25], where the read-only memory is accessed via at least one first button, and the writable memory is accessed via at least one second button [Claim 26].

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McCravy teaches where the first button is a fixed function button pre-marked with indicia, and the second button is a user-defined button [Claim 27]. However, Bissonette teaches using read only memory for static data implementing functions of the organizer (6:1-19), and using random-access {writable} memory for local temporary storage of data {such as user memos and reminders} (7:65-8:8) [Claim 25]. Bissonette teaches a first fixed-function button pre-marked with indicia for accessing the read-only memory (train button, 10:65-11:38, has a fixed function causing voice training, which accesses the program in ROM, and is pre-marked with the word, "train"), and a second user-defined button for accessing the writable memory (record and play buttons, 11:40-62, access the user memory for memos and reminders, and are thus user-defined, as the user determines what data is defined in which area of memory, 8:14-23) [Claims 26 & 27] Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have stored the historical information of Krause, in the ROM of Bissonette, and used the ROM and the writable RAM storing user-programmed events of Bissonette in the talking calendar of McCravy, using the first and second buttons for accessing the ROM and writable memories of Bissonette, in order to prevent the accidental erasure of the historical data, but allow the user to erase user-programs as desired [Claims 25-27].

10. Claims 5, 10, & 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCravy, in view of Krause, as applied to claims 1 & 2 above, and further in view of Watanabe (US 7,051,936 B2), hereinafter known as Watanabe. McCravy and Krause teach all the features as demonstrated above in the rejection of claims 1 & 2. McCravy discloses where the printed sheet pertains to a particular month of the year (time periods of one or more months, Para. 0016), and includes a machine-readable code (optical scanning of the paper, Para. 0027), and where the calendar includes a reader operatively connected to the controller for reading the

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code and communicating information to the controller (bar code scanner, Para. 0025; electronic system which communicated with and actuates time period indicators, Para. 0014), and a non-electronic {printed} system of tabs or cards for attaching to the calendar to indicate months or other time periods (Para. 0023). What McCravy fails to explicitly teach is where the machine-readable code pertains to a particular month of the year [Claim 5], where each of the additional monthly calendar sheets has a machine-readable month code [Claim 10], or a machine-readable year code [Claim 11]. However, Watanabe teaches a bar code reader, where the bar codes read include year/month/date bar codes and year/month bar codes (3:28-32). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have included a particular month or year in the machine-readable code printed on paper, as taught by Watanabe, in the talking calendar as taught by McCravy and Krause, in order to communicate the time period to the controller [Claims 5, 10, & 11].

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Whitlock (US 4,142,306) discloses a clock with a calendar, which has a fixed function button for displaying historical data on a tape. Sucato (US 5,093,854) discloses a phone-actuated calendar using a plurality of answering machines, one for each day of the year. Randall (US 5,237,651) discloses a personal organizer having calendar data stored on external memory and enabled to print out. Eshelman et al. (US 2002/0078070) discloses calendar software incorporating personal and historical data from the Internet, and incorporates a speaker or audio output. Thompson (US 2003/0170595 A1) an educational calendar for teaching reading and other subjects to children.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nikolai A. Gishnock whose telephone number is 571-272-1420. The examiner can normally be reached on M-F 8:30a-5p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*NAG*

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6/18/2007

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